

## § 50.52

losses for acts of terrorism in that Program Year. Amounts recovered for insured losses in excess of an insurer's aggregate amount of insured losses in a Program Year shall be repaid to Treasury within 45 days after the end of the month in which total recoveries of the insurer, from all sources, become excess. For purposes of this paragraph, amounts recovered from a reinsurer pursuant to an agreement whereby the reinsurer's right to any excess recovery has priority over the rights of Treasury shall not be considered a recovery subject to repayment to Treasury.

(2) *Reduction of amount payable.* The Federal share of compensation for insured losses under the Program shall be reduced by the amount of other compensation provided by other Federal programs to an insured or a third party to the extent such other compensation duplicates the insurance indemnification for those insured losses.

(i) *Other Federal program compensation.* For purposes of this section, compensation provided by other Federal programs for insured losses means compensation that is provided by Federal programs established for the purpose of compensating persons for losses in the event of emergencies, disasters, acts of terrorism, or similar events. Compensation provided by Federal programs for insured losses excludes benefit or entitlement payments, such as those made under the Social Security Act, under laws administered by the Secretary of Veteran Affairs, railroad retirement benefit payments, and other similar types of benefit payments.

(ii) *Insurer due diligence.* Each insurer shall inquire of each of its policyholders, insureds, and claimants whether the person receiving insurance proceeds for an insured loss has received, expects to receive, or is entitled to receive compensation from another Federal program for the insured loss, and if so, the source and the amount of the compensation received or expected. The response, source, and such amounts shall be reported with each underlying claim on the bordereau specified in § 50.53(b)(1).

## § 50.52 Initial Notice of Insured Loss.

Each insurer shall submit to Treasury an Initial Notice of Insured Loss,

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on a form prescribed by Treasury, whenever the insurer's aggregate insured losses (including reserves for "incurred but not reported" losses) within a Program Year exceed an amount equal to 50 percent of the insurer's deductible as specified in § 50.5(g). Insurers are advised the form for the Initial Notice of Insured Loss will include an initial estimate of aggregate losses for the Program Year, the amount of the insurer deductible and an estimate of the Federal share of compensation for the insurer's aggregate insured losses. In the case of an affiliated group of insurers, the form for the Initial Notice of Insured Loss will include the name and address of a single designated insurer within the affiliated group that will serve as the single point of contact for the purpose of providing loss and compliance certifications as required in § 50.53 and for receiving, disbursing, and distributing payments of the Federal share of compensation in accordance with § 50.54. An insurer, at its option, may elect to include with its Initial Notice of Insured Loss the certification of direct earned premium required by § 50.53(b)(3).

## § 50.53 Loss certifications.

(a) *General.* When an insurer has paid aggregate insured losses that exceed its insurer deductible, the insurer may make claim upon Treasury for the payment of the Federal share of compensation for its insured losses. The insurer shall file an Initial Certification of Loss, on a form prescribed by Treasury, and thereafter such Supplementary Certifications of Loss, on a form prescribed by Treasury, as may be necessary to receive payment for the Federal share of compensation for its insured losses.

(b) *Initial Certification of Loss.* An insurer shall use its best efforts to file with the Program the Initial Certification of Loss within 45 days following the last calendar day of the month when an insurer has paid aggregate insured losses that exceed its insurer deductible. The Initial Certification of Loss will include the following:

(1) A bordereau, on a form prescribed by Treasury, that includes basic information about each underlying insured loss. For purposes of this section, a

“bordereau” is a report of basic information about an insurer’s underlying claims that, in the aggregate, constitute the insured losses of the insurer. The bordereau will include, but may not be limited to:

- (i) A listing of each underlying insured loss by catastrophe code and line of business;
- (ii) The total amount of reinsurance recovered from other sources;
- (iii) A calculation of the aggregate insured losses sustained by the insurer above its insurer deductible for the Program Year; and
- (iv) The amount the insurer claims as the Federal share of compensation for its aggregate insured losses.

(2) A certification that the insurer is in compliance with the provisions of section 103(b) of the Act and this part, including certifications that:

- (i) The underlying insured losses listed on the bordereau filed pursuant to § 50.53(b)(1) either: Have been paid by the insurer; or will be paid by the insurer upon receipt of an advance payment of the Federal share of compensation as soon as possible, consistent with the insurer’s normal business practices, but not longer than five business days after receipt of the Federal share of compensation;
- (ii) The underlying claims for insured losses were filed by persons who suffered an insured loss, or by persons acting on behalf of such persons;
- (iii) The underlying claims for insured losses were processed in accordance with appropriate business practices and the procedures specified in this subpart;
- (iv) The insurer has complied with the disclosure requirements of §§ 50.10 through 50.19 for each underlying insured loss that is included in the amount of the insurer’s aggregate insured losses; and
- (v) The insurer has complied with the mandatory availability requirements of §§ 50.20 through 50.24.

(3) A certification of the amount of the insurer’s “direct earned premium” as defined in § 50.5(d), together with the calculation of its “insurer deductible” as defined in § 50.5(g) (provided this certification was not submitted previously with the Initial Notice of Insured Loss specified in § 50.52).

(4) A certification that the insurer will disburse payment of the Federal share of compensation in accordance with this subpart.

(c) *Supplementary Certification of Loss.* If the total amount of the Federal share of compensation due an insurer for insured losses under the Act has not been determined at the time an Initial Certification of Loss has been filed, the insurer shall file monthly, or on a schedule otherwise determined by Treasury, Supplementary Certifications of Loss updating the amount of the Federal share of compensation owed for the insurer’s insured losses. Supplementary Certifications of Loss will include the following:

- (1) A bordereau described in § 50.53(b)(1); and
- (2) A certification as described in § 50.53(b)(2).

(d) *Supplementary information.* In addition to the information required in paragraphs (b) and (c) of this section, Treasury may require such additional supporting documentation as required to ascertain the Federal share of compensation for the insured losses of any insurer.

(e) *State Residual Market Insurance Entities and State Workers’ Compensation Funds.* A State residual market insurance entity or State workers’ compensation fund described in § 50.35 shall provide the Certifications of Loss described in §§ 50.53(b) and 50.53(c) for all its insured losses to each participating insurer at the time it provides the allocated dollar value of the participating insurer’s proportionate share of insured losses. In addition, at such time the State residual market insurance entity or State workers’ compensation fund shall provide the certification described in § 50.53(b)(2) to Treasury. Participating insurers shall treat the allocated dollar value of their proportionate share of insured losses from a State residual market insurance entity or State workers’ compensation fund as an insured loss for the purpose of their own reporting to Treasury in seeking the Federal share of compensation.